

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

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|------------------------|---|-------------------------------|
| ISAAC KENNETH FULLMAN, | : | Civil Action No. 4:12-CV-1879 |
| | : | |
| Plaintiff, | : | (Judge Brann) |
| | : | |
| v. | : | (Magistrate Judge Carlson) |
| | : | |
| PATTON TOWNSHIP POLICE | : | |
| DEPARTMENT, SGT. | : | |
| MATTHEW SHUPENKO, | : | |
| CHIEF JOHN PETRICK, | : | |
| | : | |
| Defendants. | : | |

ORDER

June 12 , 2013

The undersigned has given full and independent consideration to the thorough May 16, 2013 report and recommendation of Magistrate Judge Martin C. Carlson. ECF No. 20. On May 30, 2013, Plaintiff Fullman contacted the Court. The clerk wrote “[p]laintiff contacted the court on 5/30/13 stating that he did not receive a copy of the report and recommendation and that he intends to file a motion for extension of time[, a]dditional copy sent to plaintiff.” It is now two weeks after that telephone call and Fullman has still neither filed objections to the report and recommendation, nor filed a motion for extension of time within which to file his objections.

Judge Carlson's analysis is certainly thorough; however, the undersigned will not adopt the report and recommendation in its entirety. Fullman has already been granted leave to amend his complaint; permitting Fullman the opportunity to file yet a second amended complaint would be an unfruitful exercise.

Additionally, the undersigned was quite specific in the March 14, 2013 Order in describing how to file an amended complaint. ECF No. 16, ¶ 2. Paragraph 2E of that Order stated, in pertinent part, "[s]hould the plaintiff fail to file his amended complaint within the required time period, or fail to follow the above mentioned procedures, the undersigned with dismiss the action with prejudice." Fullman did not comply with paragraph 2 of that Order.

Accordingly, this matter will be dismissed both because Fullman has already been granted one opportunity to amend his complaint to state a claim, but, nevertheless, still failed to state a claim upon which relief could be granted, and because he failed to comply with this Court's Order, as delineated above, pursuant to Fed. R. Civ. P. 41(b).

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The May 16, 2013 report and recommendation of Magistrate Judge Martin C. Carlson is ADOPTED in part and REJECTED in part. ECF No. 20.
2. The action is dismissed with prejudice pursuant to Fed. R. Civ. P. 41(b).
3. The clerk is directed to close the case file.

BY THE COURT:

s/ Matthew W. Brann
Matthew W. Brann
United States District Judge